



## **Zoning Enforcement Officer**

**TOWN OF ACTON**  
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### ***INTERDEPARTMENTAL COMMUNICATION***

**To:** Chairman & Members of the Board  
Zoning Board of Appeals  
**Date:** May 28, 2014

**From:** Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

**Subject:** Special Permit #14-04  
Zoning Bylaw Section 8.1 – Nonconforming Lots  
Construction of Addition on Nonconforming Lot in Excess of 15%

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Location: 50 Newtown Road, Acton, MA 01720  
Petitioner: Diana A. Cobb, 50 Newtown Road, Acton, MA 01720  
Owner: Diana A. Cobb, 50 Newtown Road, Acton, MA 01720  
Engineer: Kanayo Lala - PE, Four West Road, Acton, MA 01720  
Architect: Thomas T. Wilson - Architect, 11 Beacon Street, Boston, MA 02108  
Zoning: Residence 2 (R2)  
Groundwater Protection District Zone 4  
FAR Requirements: Existing Dwelling: 1,901.61 ft<sup>2</sup> (Based on drawings submitted by Applicant)  
15% Permitted by-right: 285 ft<sup>2</sup>  
Total Proposed Square Feet of New Construction: 357.60 ft<sup>2</sup>  
Proposed Use: Single Family Residential Dwelling  
Registry of Deeds: Deed Book – 49770; Page – 0180  
Plan No. 2046 of 1955  
Map/Parcel: E-3/97  
Hearing Date: June 2, 2014  
Decision Due: August 31, 2014

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### **Introduction:**

The petitioner, Mrs. Diana Cobb, is requesting a Special Permit in order to allow for the construction of a new addition to the rear of an existing single family residential dwelling. The proposed expansion is a one-story addition (approximately 23'-0" x 16'-0") which expands the habitable interior space of the dwelling and consists of a kitchen, eating/dining area and a new staircase providing access to the second floor. There is no below-grade basement space proposed. The overall proposed new square footage is 357.60 square feet, which is in excess of the 15% permitted as-of-right under Section 8.1.4 of the Zoning Bylaw. The subject property is classified and determined to be a nonconforming lot due to insufficient lot area. As per the Town of Acton Assessor's Office information, the existing structure was constructed in 1957.

Relevant zoning information for the subject site/property is summarized in the following table:

<b>By-Law Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Min. Lot Area (ft <sup>2</sup> ) *	20,000 ft <sup>2</sup>	19,680 ft <sup>2</sup> *	19,680 ft <sup>2</sup> *
Min. Lot Frontage (ft)	150'-0"	268'-6"	268'-6"
Min. Front Yard (ft) - East	30'-0"	34'-3" **	34'-3" **
Min. Side Yard (ft) – South	10'-0"	20'-6"	20'-6"
Min. Side Yard (ft) – West	10'-0"	Unknown (>10'-0")	Unknown (>10'-0")
Max. Building Height (ft)	36'-0"	Unknown (<36)	Unknown (<36) ***

\* Due to the subject property only having 19,680 ft<sup>2</sup> of total overall Lot Area, the Lot is therefore nonconforming.

\*\* The front yard setback is measured from the front property line along the Newtown Road right-of-way to the nearest and/or closest edge or point of any building or structure.

\*\*\* The architectural plans submitted for building permit review do not indicate the height of either the existing dwelling or the height of the new addition. An approximate scaling of the drawings provided would seem to conclude that both the existing dwelling and the new proposed addition would not exceed the 36'-0" maximum height limitation.

	<b>Existing</b>	<b>15%</b>	<b>Proposed</b>	<b>Additional</b>
Gross F.A.R. (Floor Area Ratio) as of April 1, 2012	1,901.61 ft <sup>2</sup> *	285 ft <sup>2</sup> **	357.60 ft <sup>2</sup> ***	72.6 ft <sup>2</sup> ****

\* This number is calculated and based upon information and drawings submitted by the Applicant. It is a best estimation of the actual gross square footage of the existing structure. Due to the Lot being nonconforming, this is the number which reflects the existing gross square footage of the dwelling which was in existence as of April 1, 2012 as required under Zoning Bylaw Section 8.1.4.

\*\* Based upon the requirements set forth in Section 8.1.4 of the Zoning Bylaw, this would signify the maximum amount of square footage permitted to be built through the administrative approval of a building permit.

\*\*\* This number is a cumulative total of all of the proposed new construction which must be counted under Section 8.1.4 of the Zoning Bylaw.

\*\*\*\* This is the difference in square footage proposed above and beyond the 15% maximum permitted by right.

#### **Applicable Town of Acton Zoning Bylaw Sections:**

- 8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming,

whichever is later

- 8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.